

UNITED STATES DISTRICT COURT
IN THE EASTERN DISTRICT OF MICHIGAN

HARRY HARMON

Plaintiff,

-vs.-

DEMAND FOR JURY TRIAL

PORTFOLIO RECOVERY ASSOCIATES

Defendant.

COMPLAINT & JURY DEMAND

Plaintiff, Harry Harmon, through counsel, Nitzkin and Associates, by Gary Nitzkin states the following claims for relief:

JURISDICTION

1. This court has jurisdiction under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692k(d) and 28 U.S.C. §§1331,1337.
2. This court may exercise supplemental jurisdiction over the related state law claims arising out of the same nucleus of operative facts which give rise to the Federal law claims.

PARTIES

3. The Defendant to this lawsuit is Portfolio Recovery Associates ("PRS") which is a corporation doing business in Virginia.

VENUE

4. The transactions and occurrences which give rise to this action occurred in Wayne County, Michigan.
5. Venue is proper in the Eastern District of Michigan.

GENERAL ALLEGATIONS

6. Defendant is attempting to collect on a consumer type debt alleged debt owed by Andrew to Providian National Bank (“the Debt”).
7. The Plaintiff was never an obligor the Debt.
8. Defendant is currently calling the Plaintiff, Harry Harmon who is the father of Andrew Harmon, in an attempt to collect on the alleged debt.
9. Defendant started contacting Harry Harmon in February 2011 in connection with its attempts to collect the Debt.
10. Sometime in May of 2011, Harry informed the Defendant that the phone number it was calling belong to him and not to his son, Andrew. The Plaintiff further instructed the Defendant to cease contacting him.
11. Despite this directive, the Defendant continued to call Harry on his telephone.
12. During these telephone calls, the Defendant told Harry that they were calling him in an attempt to collect the Debt.
13. Defendant had also called Harry after 9:00 p.m. on the following dates and times:
 - a. Monday, May 16, 2011 at 11:25 p.m. from 518-207-3600
 - b. Saturday, May 14, 2011 at 12:11 a.m. from 858-346-1184
 - c. Monday, May 9, 2011 at 9:13 p.m. from 757-961-3544
 - d. Monday, May 2, 2011 at 9:32 p.m. from 800-772-1413
 - e. Monday, April 25, 2011 at 9:06 p.m. from 757-961-3544
 - f. Friday, April 22, 2011 at 9:34 p.m. from 847-994-2540
 - g. Wednesday, April 20, 2011 at 11:34 p.m. from 757-961-3544
 - h. Sunday, April 17, 2011 at 10:31 p.m. from 626-209-2241
 - i. Wednesday, April 13, 2011 at 9:07 p.m. from 800-772-1413
 - j. Wednesday, April 13, 2011 at 12:19 a.m. from 678-265-1568
 - k. Thursday, April 7, 2011 at 10:32 p.m. from 847-994-2540
 - l. Tuesday, April 5, 2011 at 10:47 p.m. from 510-355-1780
 - m. Thursday, March 31, 2011 at 12:01 a.m. from 702-410-7069
 - n. Thursday, March 24, 2011 at 11:26 p.m. from 702-410-7069
 - o. Thursday, March 24, 2011 at 12:31 a.m. from 678-265-1568
 - p. Sunday, March 20, 2011 at 11:11 p.m. from 859-918-0784
 - q. Thursday, March 17, 2011 at 11:57 p.m. from 702-410-7069
 - r. Tuesday, March 15, 2011 at 12:39 a.m. from 626-209-2241
 - s. Tuesday, March 8, 2011 at 9:49 p.m. from 800-772-1413

- t. Tuesday, March 1, 2011 at 12:13 a.m. from 757-961-3544
- u. Monday, February 28, 2011 at 10:23 p.m. from 757-961-3544
- v. Saturday, February 26, 2011 at 12:50 a.m. from 847-994-2540
- w. Thursday, February 24, 2011 at 9:41 p.m. from 847-994-2540
- x. Monday, February 21, 2011 at 11:18 p.m. from 800-772-1413

14. Friday, February 18, 2011 at 1:13 a.m. from 757-961-3544

15. The Plaintiff has suffered damages as a result of these violations of the FDCPA.

COUNT I - FAIR DEBT COLLECTION PRACTICES ACT

16. Plaintiff reincorporates the preceding allegations by reference.

17. At all relevant times Defendant, in the ordinary course of its business, regularly engaged in the practice of collecting debts on behalf of other individuals or entities.

18. Plaintiff is a "consumer" for purposes of the FDCPA and the account at issue in this case is a consumer debt.

19. Defendant is a "debt collector" under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692a(6).

20. Defendant's foregoing acts in attempting to collect this alleged debt violated 15 U.S.C. §1692 et. seq;

21. The Plaintiff has suffered damages as a result of these violations of the FDCPA.

COUNT II - VIOLATION OF THE MICHIGAN OCCUPATIONAL CODE

22. Plaintiff incorporates the preceding allegations by reference.

23. Defendant is a "collection agency" as that term is defined in the Michigan Occupational Code ("MOC"), M.C.L. § 339.901(b).

24. Plaintiff is a debtor as that term is defined in M.C.L. § 339.901(f).
25. Defendant's foregoing acts in attempting to collect this alleged debt violated MCL §339.915
26. Plaintiff has suffered damages as a result of these violations of the Michigan Occupational Code.
27. These violations of the Michigan Occupational Code were willful.

COUNT III - VIOLATION OF THE MICHIGAN COLLECTION PRACTICES ACT

28. Plaintiff incorporates the preceding allegations by reference.
29. Defendant is a "Regulated Person" as that term is defined in the Michigan Collection Practices Act ("MCPA"), at MCL § 445.251.
30. Plaintiff is a "Consumer" as that term is defined at MCL § 445.251.
31. Defendant's foregoing acts in attempting to collect this alleged debt violated MCL §445.252
32. Plaintiff has suffered damages as a result of these violations of the MCPA.
33. These violations of the MCPA were willful.

DEMAND FOR JURY TRIAL

Plaintiff demands trial by jury in this action.

DEMAND FOR JUDGMENT FOR RELIEF

Accordingly, Plaintiff requests that the Court grant him the following relief against the defendant:

- a. Actual damages.
- b. Statutory damages.
- c. Treble damages.
- d. Statutory costs and attorney fees.

Respectfully submitted,

June 15, 2011

/s/ Gary Nitzkin
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